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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,292	06/23/2000	VINCENT LE GUEN	Q59354	1515

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EXAMINER

NGO, LIEN M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/582,292

Applicant(s)

LE GUEN, VINCENT

Examiner

LIEN TM NGO

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3727

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 8, "aforesaid marginal zone" lacks antecedent basis. It should be --said marginal linking area--.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Pocock et al. (4,296,667).

In regard to claim 1, Pocock et al. disclose, in fig.5, a container having a cylindrical wall 21, and a petaloid-type base 23. Said base comprises a convex wall 31 and outgrowth member 25.

Art Unit: 3727

The convex wall comprises a hemispherical area (C-C) and a peripheral marginal area (A-C) having a curve (AB; BC) with an inflection B. The base wall and the marginal area as well as the cylindrical wall and the peripheral area are linked in an almost tangential manner (see point C and A).

In regard to claim 2 and 3, the outgrowth members are linked with the hemispherical wall in a roughly tangentially member (at point D) in immediate proximity.

In regard to claims 4-6, the curve radius (R1) of the hemispherical wall is between 80%-120% of the radius of the cylindrical wall (R2). The container further comprises a clearance (under point D), and a support surface 25. The top end of the members is linked with the cylindrical wall in an almost tangential member (at point A).

(Note that labels A,B,C,D, R1 and R2 are noted in fig. 5 by examiner for a better illustration, see attachment.)

5. Claims 1, 5, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Motill (4,368,825).

In regard to claim 1, Motill discloses, in figs. 3, 7, 9, and see the attachment, a container having a cylindrical wall 3, and a petaloid -type base (A-A). Said base comprises a convex wall (C-C) and outgrowth member 7. The convex wall comprises a hemispherical area (C-C) and a peripheral marginal area (A-C) having a curve (AB; BC) with an inflection B. The base wall and the marginal area as well as the cylindrical wall and the peripheral area are linked in an almost tangential manner (see point C and A).

Art Unit: 3727

In regard to claims 5, 6 and 7, the container further comprises a clearance (under point D), and a support surface (foot 7). The top end of the members is linked with the cylindrical wall in an almost tangential member (at point A). The container further comprises a shoulder 2, a collar and a neck 1.

### *Response to Arguments*

6. Applicant's arguments filed 2/26/02 have been fully considered but they are not persuasive.

In response to applicant's argument that Pocock does not disclose that "the base wall is hemispherical, except for a peripheral marginal linking area with the cylindrical wall, aforesaid marginal zone has a curve with an inflection." However, that is not found convincing because examiner submits that Pocock does disclose all limitations pointed above, such as, the base wall (A-A), except for a peripheral marginal linking area (A-C) with the cylindrical wall 21, said marginal linking area has a curve with an inflection (B), see attachment. Note that an inflection is a change of direction in curvature of an arc or curve, but an inflection is not necessary to change in curvature from concave to convex or vice versa.

In response to applicant's argument that Motill does not disclose that "the base wall is hemispherical, except for a peripheral marginal linking area with the cylindrical wall, aforesaid marginal zone has a curve with an inflection." However, that is not found convincing because examiner submits that Motill does disclose all limitations pointed above, such as, the base wall (A-A), except for a peripheral marginal linking area (A-C) with the cylindrical wall 3, said marginal

Art Unit: 3727

linking area has a curve with an inflection (B), see attachment. Note that an inflection is a change of direction in curvature of an arc or curve, but an inflection is not necessary to change in curvature from concave to convex or vice versa.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3727

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

June 17, 2002



NATHAN J. NEWHOUSE  
PRIMARY EXAMINER